IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No.20061 of 2002

Between:

1. Sri Vema Educational Society rep. by its Correspondent

Smt. P. Suneetha, Naidupeta, Nellore District.

2. Viswam High School rep. by its Correspondent

Smt. E. Janaki Lakshmi, Naidupet, Nellore District.

3. S.K.C.R. High School rep. by its Correspondent

Sri B. Ratnaiah, Naidupet, Nellore District.

..... PETITIONERS

AND

1. The Government of A.P. rep. by its Secretary,

Department of School Education, Secretariat Buildings,

Hyderabad.

2. The Director of School Education, Government of A.P.,

Hyderabad.

3. The Regional Joint Director of School Education,

Guntur, Guntur District.

4. Navodaya Educational Society rep. by its Correspondent,

Agraharpet, Naidupet, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or direction declaring the action of the respondents 1 to 3 in ignoring the conditions prescribed in relevant rules made for grant of permission to 4th respondent to start classes VIII to X and proceeding to grant permission to 4th respondent school in violation of the rules as illegal and arbitrary and consequently direct the respondents 1 to 3 to follow the rules made for grant of permission to the schools.

Counsel for the Petitioners: MR. P.GANGA RAMI REDDY

Counsel for the Respondent Nos.1 to 3: GP FOR PANCHAYAT RAJ & RURAL DEVELOPMENT

Counsel for the Respondent No.4: MR. V. SUDHAKAR REDDY

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.20061 OF 2002

ORDER:

The petitioners are recognised schools. The third respondent accorded permission to the petitioner schools. The petitioners state that Naidupet is a Gram Panchayat

where there are more than half a dozen schools including two Government schools and that there is no need for establishment of another school. The petitioners are aggrieved by the action of the respondents 2 and 3 in considering the proposal of the fourth respondent for establishment of a high school, within a distance of 150 meters from petitioners' schools. The petitioners contend that as per Rule 4 of the A.P. Educational Institutions (Establishment, Recognition, Administration and Control of Schools under Private Managements) Rules, 1993 (the Rules, for brevity), a new school cannot be permitted to be established within a distance of one kilometer, if it is a pre primary or primary school; within a distance of two kilometers, if it is a upper primary school; and within a distance of five kilometers, if it is a high school. The petitioners contend that this Rule is violated. Secondly, the petitioners submit that a new school would not be viable as there are already sufficient schools in Naidupet Gram Panchayat.

This Court while admitting the writ petition on 10.10.2002 ordered notice to the respondents. The respondents have not so far filed any counter affidavit.

At the time of filing the writ petition, permission was not granted to fourth respondent. Therefore, it is incumbent on the part of the respondents 2 and 3 to keep in mind the Rules, especially Rule 4 of the Rules, before granting any permission to fourth respondent. In the interregnum, if permission is granted, a copy of the permission granted to the fourth respondent shall be communicated by the second respondent to the petitioners, whereupon, it shall be open to the petitioners to file appeal under Section 89 of the A.P.Education Act, 1982 before the third respondent. The second respondent shall consider all the questions raised by the petitioners and pass appropriate orders in the matter.

The writ petition, with the above directions, is disposed of.

_____

(V.V.S.RAO,J)

06.10.2004.

pln

To

1. The Secretary, Department of School Education,

Government of A.P., Secretariat Buildings, Hyderabad.

2. The Director of School Education, Government of A.P.,

Hyderabad.

3. The Regional Joint Director of School Education,

Guntur, Guntur District.

4. Two CCs to the Government Pleader for Panchayat Raj &

Rural Development, High Court Buildings, Hyderabad (O.U.T)

5. Two C.D. Copies.